



Tovar v Indiana 12cv06104

Mark Moody

to:

ForrestNYSDChambers@nysd.uscourts.gov

10/04/2012 07:32 AM

Cc:

"Sesser, Gary", "Wallace, Judith", 'Ted Kaplan'

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12cv6104(KBF)

Please respond to Mark Moody <mwm@mwmoodly.com>

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DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: OCT 04 2012

Dear Judge Forrest:

Please forgive the informality and tardiness of this communication with your Honor in light of the conference currently scheduled for October 5 at 10am, and your Order dated September 20, 2012.

My firm, M W MOODY LLC, represents Plaintiff Joao Tovar.

However, I left the country on May 28, 2012 and remain out of the country until the end of November. As a result of my travels (which were planned before this case was returned to the Southern District), I have had limited access to email, hence my delay. I have not yet communicated with counsel for Defendant Indiana concerning a scheduling order, though I intend to send them an email immediately following this one.

A colleague of mine, Theodore Kaplan, Esq., is prepared to appear before you on Friday at 10am should you wish the conference to go forward. Mr. Kaplan is fully aware of this matter, and will be involved in any and all communications between myself and Defendant Indiana's counsel between now and my return to New York.

In the event that your Honor considers it more expedient to find a date that follows Defendant Indiana's counsel's and my opportunity to present a mutually agreeable scheduling order, I am advised by Mr. Kaplan that the next available Friday that he has is potentially October 26 (unless he is required to attend an oral argument before the 4th Department), but certainly November 2. I will ascertain from Defendant's counsel whether these dates are amenable to them, and perhaps we can resolve upon a mutually agreeable alternative. I should reiterate that Mr. Kaplan is fully prepared to attend Court on

October 5 at 10am.

In addition, I cannot log on to the SDNY website from my current location, and thus cannot register electronically per your Order. I am hopeful that your Honor will extend my time to electronically register until my return to New York, and permit Mr. Kaplan to register - not as Mr. Tovar's counsel of record, but as my colleague assisting in the matter.

Respectfully submitted,

Mark Warren Moody  
(MWM 3742)

The conference will go forward on Oct. 5 as scheduled. The Court assumes Mr. Kaplan has full authority to bind plaintiff.

Oct. 4, 2012

**SO ORDERED:**

K. B. Forrest  
HON. KATHERINE B. FORREST  
UNITED STATES DISTRICT JUDGE